

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

BRIAN KEITH MCNUTT,

No. 2:20-cv-0780 WBS AC P

Plaintiff,

ORDER

v.

JOHN DOE,

Defendant.

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On July 27, 2020, the magistrate judge issued findings and recommendations herein which were served on plaintiff and which contained notice to plaintiff that any objections to the findings and recommendations were to be filed within twenty-one days. ECF No. 11. Plaintiff has not filed objections to the findings and recommendations. Instead, on July 29, 2020, plaintiff filed a motion for a continuance of the matter in light of a prison lockdown due to the COVID-19 pandemic. See ECF No. 12.

The court notes for the record that on August 3, 2020, plaintiff also filed a prisoner trust fund account statement. See ECF No. 13. It further acknowledges the fact that the primary reason the magistrate judge has recommended that this action be dismissed is plaintiff's thrice-

1 failed attempt to file a properly completed and certified in forma pauperis application form and
2 prisoner trust fund account statement. See, e.g., ECF Nos. 3, 5, 7.

3 Unfortunately, plaintiff's most recently filed trust fund account statement does not remedy
4 the deficiencies in his in forma pauperis application. See generally ECF No. 13. Moreover, since
5 August 2020, plaintiff has made no other attempts to file a proper in forma pauperis application.
6 For these reasons, the court will adopt the findings and recommendations of the magistrate judge.

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. The findings and recommendations issued July 27, 2020 (ECF No. 11), are ADOPTED
9 in full;

10 2. This action is DISMISSED without prejudice for failure to file a proper in forma
11 pauperis application or, in the alternative, to pay the filing and administrative fees, and

12 3. Plaintiff's motion for a continuance (ECF No. 12) is DENIED as moot.

13 Dated: April 2, 2021


14 WILLIAM B. SHUBB
15 UNITED STATES DISTRICT JUDGE

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